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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 34193, 34194, 34196, 34197 & 34199 of 2019

C.Vaithi

Petitioner(s)

Vs

The Management of Sri Balaji
Cotton Mills, S.F.No. 33/3, Salem
Sankari Main Road, Senaipalayam
Village, Rakkipatti Post, Vembaditham
Via, Salem Taluk and District

Respondent(s)

WP No. 34199 of 2019

P.Subramani

Petitioner(s)

Vs

The Management of Sri Balaji
Cotton Mills, S.F.No. 33/3, Salem
Sankari Main Road, Senaipalayam
Village, Rakkipatti Post, Vembaditham
Via, Salem Taluk and District

Respondent(s)

WP No. 34194 of 2019



P.Raman

Petitioner(s)

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Vs

The Management of Sri Balaji
Cotton Mills, S.F.No. 33/3, Salem
Sankari Main Road, Senaipalayam
Village, Rakkipatti Post, Vembaditham
Via, Salem Taluk and District

Respondent(s)

WP No. 34197 of 2019

R.Balan

Petitioner(s)

Vs

The Management of Sri Balaji
Cotton Mills, S.F.No. 33/3, Salem
Sankari Main Road, Senaipalayam
Village, Rakkipatti Post, Vembaditham
Via, Salem Taluk and District

Respondent(s)

WP No. 34196 of 2019

R.Selvam

Petitioner(s)

Vs

The Management of Sri Balaji
Cotton Mills, S.F.No. 33/3, Salem
Sankari Main Road, Senaipalayam
Village, Rakkipatti Post, Vembaditham
Via, Salem Taluk and District

Respondent(s)

**Common Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus Calling for the award dated 30.03.2016 passed in C.P.No. 121, 117, 115, 116 & 118 of 2013 on the file of the Labour Court Salem and quash the same and consequently direct the respondent to pay the arrears of salary to the petitioner from the date of dismissal

In all W.P.'s

For Petitioner(s): Mr. Shanmuga Sundaram For
P.Suresh (in All The Wps)

For Respondent(s): Respondent- Not ready in notice
(in All The Wps)

COMMON ORDER

The short point to be decided in these writ petitions is whether in the absence of pre-existing right, the petitioners are entitled to file computation petitions seeking arrears of wages.

2. The fact in a nutshell are as follows:

2.1 The petitioners joined the service of the respondent Mill raising various demands. It is the case of the petitioners that they participated in the trade union activities raising their genuine grievances. According to the petitioners, the respondent's mill had acted in a biased manner and victimised



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them for having taken part in the trade union activities and on false charges conducted a farce enquiry and dismissed them from service. According to the petitioners, without even getting approval from the Tribunal by filing approval petition, the respondent mill has sent a termination order along with one month notice claiming it to be in compliance of Section 33(C)2 of the Industrial Disputes Act, 1947. According to the petitioners, when the industrial dispute was pending before the Labour Court, the respondent mill could not have terminated their services. Since their termination was not approved, the petitioners filed a computation petition seeking salary from 13.04.2013 till the date of filing the computation petition. The learned Tribunal on an analysis of the entire material placed before it had held that the petitioners lacked the pre-existing right for filing computation petition and accordingly rejected the same. Challenging the said orders, the present writ petitions have been filed.

3. Since the issue involved in these petitions are one and the same and the arguments advanced were also same, they are disposed of by way of this common order.



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4. The learned counsel for the petitioner was harping on the ground that the management filed to get approval from the Labour Court about their dismissal. Therefore, pending approval from the Labour Court and more specifically when there is an industrial dispute pending between the management and the workers, the respondent mill could not have sent the termination order along with one month salary. Therefore, the learned counsel submitted that the order passed by the Labour Court is off the mark and it needs interference.

5. The learned counsel for the respondent submitted that there were multiple proceedings pending between the parties before various Labour Courts. The respondent had had got approval from one such Labour Court and until after necessary approval, the Termination order along with one month salary was sent to the petitioners. The petitioners have also received the same. Now the petitioners cannot turn around and contend that the mandatory provisions of the Industrial Disputes Act, 1947 had not been followed and the learned counsel



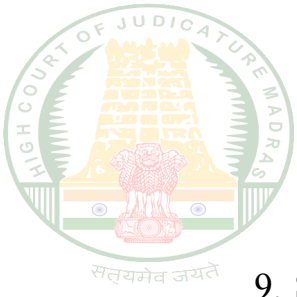
submitted that the order passed by the Labour Court may be sustained.

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6. Heard the learned counsel on either side and perused the materials placed on record.

7. As noted earlier, the short point to be decided in these petitions is whether the petitioners have established their pre-existing right to claim salary for a certain period. The learned counsel for the petitioners referred to two Industrial Disputes pending between the parties.

8. The learned counsel for the respondent drew the attention of this Court to the fact that not only to the above industrial disputes, there are also various other disputes pending between various Labour Courts. I.D.No.1 of 2002 was regarding rise in wages. The respondent has demonstrated before the Labour Court that there were multiple proceedings pending between the parties and the respondent had got approval from the Labour Court regarding termination of the workmen.



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9. Since industrial disputes were raised in more than one place, it would suffice if approval petition is filed in one place and orders are obtained from one Court. There is no necessity for filing approval petition in every place where industrial dispute is raised. The petitioners have received the termination order and one month's salary without any objection. Unless the termination order is set aside by a competent court, the workman cannot ask for arrears of salary. The petitioners have not raised any industrial dispute with regard to their dismissal of service.

10. Section 33C(2) provides a mechanism for a workman to seek the recovery of monetary and non-monetary benefits that are due to them, essentially acting as a form of execution proceedings.

11. The Labour Court's role under this section is limited to the extent of determining if any amount of money or benefit due to the workman, but not to decide whether the workman is entitled to it in the first place. The application



under Section 33C(2) is typically filed when a workman is entitled to a benefit based on an existing right, such as a settlement or award, and the issue is only about the computation of the amount. The Labour Court cannot adjudicate on the entitlement of the workman to the benefit.

12. As rightly pointed out by the learned counsel for the respondent, the petitioners have so far not challenged the termination order. Without challenging the termination order it is not open for the petitioners to file a computation petition.

13. While dismissing the writ petitions, the petitioners are given liberty to challenge the termination order, if so advised. No costs.

29-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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WP No. 34193 of 2019 & batch



To

Labour Court, Salem

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WP No. 34193 of 2019 & batch



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M.DHANDAPANI J.

RAP

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34196, 34197 & 34199 of
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